

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
vs.) NO. 04-30055-MAP
)
KACEY JONES)

REQUEST TO REOPEN SUPPRESSION HEARING

Now comes the defendant and respectfully requests this Honorable Court allow the Suppression Hearing to be reopened so the defendant may cross exam a Government witness on issues which would affect his credibility.

The court, in its denying the Motion to Suppress, found the Government presented credible witnesses on the issue of, among other things, permission to enter and search; the defense presented witnesses with credibility issues in the eyes of the court.

The defendant has learned, very recently, a key Government witness, Springfield Police Officer Michael Trombley, was the subject of a defense motion to dismiss a case in State court based upon allegations he presented false evidence. Specifically the defense has attached information showing that Officer Trombley prepared two different police reports for an arrest that he conducted on 6/29/01. Officer Trombley testified in Juvenile Court, regarding prosecution of one of the co-defendants, consistent with the version in the first police report he prepared which did not include information about observing a transaction which could establish probable cause. The juvenile case resulted in a Motion to Suppress being allowed and a case against another adult co-defendant was prosecuted in the Hampden County Superior Court. A second police report was apparently submitted by Officer Trombley which included a description of observing a transaction before moving in to make an arrest which would give probable cause to the search at issue. Officer Trombley also testified at the Grand Jury regarding the adult consistent with the second police report which was submitted including the information of watching what he believed to be a transaction take place before moving in and conducting searches. In addition, when Officer Trombley testified at the Juvenile Court Hearing he was questioned in a brief way regarding the issue of seeing any prior transaction and he testified that he had not seen any transactions of any kind. Officer Trombley's partner also testified at the Juvenile Court Hearing and more specifically testified to not seeing any drug transaction take place.

Attached is the Superior Court Judges' Memorandum of Decision allowing the defendant's Motion to Dismiss based upon the allegations of Officer Trombley's based, among other things, on the allegation of Officer Trombley's false testimony.

The Hampden County District Attorney's Office requested the judge reconsider the ruling allowing the Motion to Dismiss, and the Reconsideration Motion was allowed and a hearing held. To date, the defendant believes no ruling has yet been made by the Hampden County Superior Court after a hearing on the Reconsideration where officer Trombley, based upon counsel's information, did testify.

The defendant believes Officer Trombley's submission of two different police reports regarding a certain event and different testimony he gave in Juvenile Court versus the adult prosecution would provide very strong impeachment evidence on the issue of his credibility. The defendant did not have this information available at the time of the motion hearing but would have sought to impeach this officer's credibility if the information was known.

Accordingly, the defendant seeks to reopen the hearing so he may question Trombley regarding the issues involving the 2001 case and thereby allow the defense to argue the defense witnesses should be believed in this case as the police version of the events may be affected by the court's reconsideration of police credibility.

Respectfully submitted,

THE DEFENDANT

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CERTIFICATE OF SERVICE

I, Mark G. Mastroianni, Esq., do hereby certify that I have served a copy of the foregoing via CM/ECF to AUSA Paul Smyth, 1550 Main Street, Springfield, MA 01103 this 13 day of March 2006.

/s/ Mark G. Mastroianni
